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7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-381

13 **JUAN CARLOS FLORES-VELEZ**

14 Bariada Borinquen A-3 #49
15 Ponce, Puerto Rico 00731

16 Registered Nurse License No. 572305
17 Nurse Anesthetist Certificate No. 4240

ACCUSATION

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about September 22, 2000, the Board of Registered Nursing issued Registered
24 Nurse License Number 572305 to Juan Carlos Flores-Velez ("Respondent"). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on June 30, 2014, unless renewed.

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1 3. On or about July 12, 2012, the Board of Registered Nursing issued Nurse Anesthetist
2 Certificate No. 4240 to Respondent. The Nurse Anesthetist Certificate will expire on June 30,
3 2014, unless renewed.

4 **JURISDICTION AND STATUTORY PROVISIONS**

5 4. This Accusation is brought before the Board of Registered Nursing ("Board"),
6 Department of Consumer Affairs, under the authority of the following laws. All section
7 references are to the Business and Professions Code ("Code") unless otherwise indicated.

8 5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
9 any licensee, including a licensee holding a temporary or an inactive license, for any reason
10 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

11 6. Section 2761 of the Code states in pertinent part:

12 "The board may take disciplinary action against a certified or licensed
13 nurse or deny an application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the
15 following:

16 ...

17 (d) Violating or attempting to violate, directly or indirectly, or assisting
18 in or abetting the violating of, or conspiring to violate any provision or term of this
19 chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

20 ...

21 (f) Conviction of a felony or of any offense substantially related to the
22 qualifications, functions, and duties of a registered nurse, in which event the record of
23 the conviction shall be conclusive evidence thereof."

24 7. Section 490 of the Code states in pertinent part:

25 "(a) In addition to any other action that a board is permitted to take
26 against a licensee, a board may suspend or revoke a license on the ground that the
27 licensee has been convicted of a crime, if the crime is substantially related to the
28 qualifications, functions, or duties of the business or profession for which the license
 was issued.

 (b) Notwithstanding any other provision of law, a board may exercise any
 authority to discipline a licensee for conviction of a crime that is independent of the
 authority granted under subdivision (a) only if the crime is substantially related to the
 qualifications, functions, or duties of the business or profession for which the
 licensee's license was issued.

 (c) A conviction within the meaning of this section means a plea or

1 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
2 a board is permitted to take following the establishment of a conviction may be taken
3 when the time for appeal has elapsed, or the judgment of conviction has been
4 affirmed on appeal, or when an order granting probation is made suspending the
5 imposition of sentence, irrespective of a subsequent order under the provisions of
6 Section 1203.4 of the Penal Code.”

8. Section 493 of the Code states:

5 “Notwithstanding any other provision of law, in a proceeding conducted
6 by a board within the department pursuant to law to deny an application for a license
7 or to suspend or revoke a license or otherwise take disciplinary action against a
8 person who holds a license, upon the ground that the applicant or the licensee has
9 been convicted of a crime substantially related to the qualifications, functions, and
10 duties of the licensee in question, the record of conviction of the crime shall be
11 conclusive evidence of the fact that the conviction occurred, but only of that fact, and
12 the board may inquire into the circumstances surrounding the commission of the
13 crime in order to fix the degree of discipline or to determine if the conviction is
14 substantially related to the qualifications, functions, and duties of the licensee in
15 question.

11 As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’
12 ‘authority,’ and ‘registration.’”

9. Section 2762 of the Code provides in pertinent part:

14 “In addition to other acts constituting unprofessional conduct within the
15 meaning of this chapter it is unprofessional conduct for a person licensed under this
16 chapter to do any of the following:

16 (a) Obtain or possess in violation of law, or prescribe, or except as
17 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
18 himself or herself, or furnish or administer to another, any controlled substance as
19 defined in Division 10 (commencing with Section 11000) of the Health and Safety
20 Code or any dangerous drug or dangerous device as defined in Section 4022.

19 (b) Use any controlled substance as defined in Division 10 (commencing
20 with Section 11000) of the Health and Safety Code, or any dangerous drug or
21 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
22 in a manner dangerous or injurious to himself or herself, any other person, or the
23 public or to the extent that such use impairs his or her ability to conduct with safety to
24 the public the practice authorized by his or her license.”

22 REGULATORY PROVISIONS

23 10. California Code of Regulations, title 16, section 1444, states:

24 “A conviction or act shall be considered to be substantially related to the
25 qualifications, functions or duties of a registered nurse if to a substantial degree it
26 evidences the present or potential unfitness of a registered nurse to practice in a
27 manner consistent with the public health, safety, or welfare. Such convictions or acts
28 shall include but not be limited to the following...”

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1 **COST RECOVERY**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of Substantially Related Crimes)**

8 12. Respondent is subject to disciplinary action under section 490 and section 2761,
9 subdivision (f) of the Code in conjunction with California Code of Regulations, title 16, section
10 1444 in that Respondent was convicted of crimes substantially related to the qualifications,
11 functions and duties of a registered nurse, as follows:

12 13. On or about October 12, 2007, Respondent pled nolo contendere to one misdemeanor
13 count of violating Penal Code section 148(a)(1) [disturbing the peace] and one misdemeanor
14 count of violating Penal Code section 594(a) [vandalism] in the criminal proceeding entitled *The*
15 *People of the State of California v. Juan Carlos Flores* (Super. Ct. of California, County of Los
16 Angeles, 2007, Case No. SA064769). On or about December 7, 2007, the court sentenced
17 Respondent to serve 8 days in Los Angeles County Jail and placed Respondent on probation for a
18 period of 24 months, with terms and conditions. The circumstances underlying the criminal
19 conviction are that on or about July 14, 2007, County of Los Angeles Sheriff's Department
20 Officers ("Officers") responded to a call of a male setting off fire alarms. Responding Officers
21 observed Respondent standing on the roof of the building, 40-50 feet from the ground.
22 Respondent failed to comply with officer instructions and was pepper sprayed. Upon
23 investigation, Officers observed several damaged satellite dishes, antennas and frayed cables.
24 Officers also observed a broken skylight.

25 14. On or about August 5, 2011, Respondent pled nolo contendere to and was convicted
26 of one misdemeanor count of violating Health and Safety Code section 11364(a) [possession of
27 drug paraphernalia] in the criminal proceeding entitled *The People of the State of California v.*
28 *Juan Carlos Velez* (Super. Ct. of California, County of Los Angeles, 2011, Case No. 7BV01841).

1 The court denied probation and ordered Respondent to pay a restitution fine of \$765.00 and
2 attend at least 30 Alcoholics Anonymous meetings, among other conditions. The circumstances
3 underlying the conviction are that on or about August 13, 2007, Officers responded to a
4 disturbance call. Officers contacted Respondent, who was identified as the resident causing the
5 disturbance, and observed Respondent exhibiting symptoms of narcotic intoxication. Officers
6 detained Respondent and with his consent went inside of his apartment to be outside of view of
7 his neighbors. Inside the apartment, Officers observed two narcotic glass pipes containing a
8 substance resembling methamphetamine in plain view.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) on the
12 grounds of unprofessional conduct in that Respondent damaged property and possessed drug
13 paraphernalia. The conduct is described in more particularity in paragraphs 13 and 14 above,
14 inclusive and hereby incorporated by reference.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violate Provisions of the Nursing Practice Act)**

17 16. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the
18 Code in that Respondent violated provisions of the Nursing Practice Act when he was convicted
19 of substantially related crimes and when he committed unprofessional conduct. The violations
20 are described in more particularity in paragraphs 12-14 above, inclusive and hereby incorporated
21 by reference.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Drug Related Transgressions)**

24 17. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
25 Code as defined in section 2762, subdivision (a) of the Code in that Respondent violated obtained
26 or possessed a dangerous device. The possession is described in more particularity in paragraph
27 14 above, inclusive and hereby incorporated by reference.

1 18. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
2 Code as defined in section 2762, subdivision (b) of the Code in that Respondent used controlled
3 substances or dangerous drugs to an extent or in a manner dangerous or injurious to himself,
4 others and the public. The use is described in more particularity in paragraph 14 above, inclusive
5 and hereby incorporated by reference.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License Number 572305 and Nurse
10 Anesthetist Certificate No. 4240, issued to Juan Carlos Flores-Velez;

11 2. Ordering Juan Carlos Flores-Velez to pay the Board of Registered Nursing the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

14 3. Taking such other and further action as deemed necessary and proper.
15

16 DATED: November 7, 2012

17 *for* Stacie Barr
18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant
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